

SALLS BROTHERS CONSTRUCTION, INC.,)	AGBCA Nos. 2004-194-1
)	2004-195-1
Appellant)	2005-117-1
)	2005-121-1 thru
Appearing for the Appellant:)	2005-125-1
)	
Lillian G. Apodaca, Esquire)	
Bingham, Hurst, Apodaca & Wile)	
3908 Carlisle Blvd. NE)	
Albuquerque, New Mexico 87107)	
)	
Appearing for the Government:)	
)	
Steven C. Silverman, Esquire)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

July 7, 2005

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

These appeals arise under Contract Nos. 50-8C30-03-910 and 50-8C30-2-809, construction of Phases III and IV of the Truth or Consequences Williamsburg Arroyos Watershed, Sierra County, New Mexico between Salls Brothers Construction, Inc. (Salls or Appellant) of Albuquerque, New Mexico and the U. S. Department of Agriculture, Natural Resources Conservation Service (NRCS) of Albuquerque, New Mexico. The timely appeals were filed at various times starting August 23, 2004.

The Board has jurisdiction to decide the appeals pursuant to the Contract Disputes Act of 1978, (CDA), 41 U.S.C. §§ 601-613, as amended.

Starting in October 2004, the Board held several conferences with the President/CEO of Appellant, Mr. Fred Salls and with counsel for NRCS, Mr. Steven C. Silverman. Thereafter, Appellant secured the services of counsel, Ms. Lillian Apodaca. In conferences with Mr. Silverman and Ms. Apodaca, the Board proceeded to set a hearing date on AGBCA No. 2004-194-1, which involved the Phase IV

contract. Proceedings were to be later scheduled for the remaining appeals. Thereafter, during a telephone conference of May 24, 2005, the parties agreed to proceed with a non-binding mediation, in an attempt to resolve all matters, in lieu of proceeding with the scheduled hearing.

On June 21 and 22, the Board conducted an ADR proceeding in Albuquerque, New Mexico. During the mediation the parties and Board addressed both the appeals and other dollar disputes, which had not yet been subject of a final decision. As a result of the ADR, the parties came to an agreement, which addressed not only the specific appeals arising out of Phases III and IV, but also globally included Phase II of the project (Contract No. 50-8C30-1-10).

Under cover letter of July 5, 2005, counsel for NRCS provided the Board with a fully executed copy of Settlement Agreement and Joint Motion for Order Approving Settlement Agreement and Dismissing Claims. In the agreement, the parties expressed the intent to globally resolve any and all disputes they may have had with each other in connection with Contracts 50-8C30-1-10, 50-8C30-2-809, and 50-8C30-03-910. The agreement provided that upon approval of the Joint Motion, all claims before the Board would be resolved. The Settlement Agreement further specified that in the event that either of the parties fails to comply with the terms of the Settlement Agreement, the Board would retain jurisdiction of AGBCA Nos. 2004-194-1, 2004-195-1, 2005-124-1, 2005-125-1, and 2005-117-1 for purposes of enforcing the terms of the settlement agreement. The Settlement Agreement did not specifically address AGBCA Nos. 2005-121-1 through 2005-123-1. These matters, however, are also dismissed as they fall under the global settlement.

DECISION

The parties have resolved the underlying disputes, subject to each party taking specific actions. The Board dismisses the appeals with prejudice, subject to reinstatement should a demonstrated need arise as addressed in the settlement agreement.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

**Issued at Washington, D.C.
July, 7, 2005**